

Improving How California Pesticide Laws Are Enforced

Department of Pesticide Regulation
March 2006

Proposed Regulations

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- ▶ *The rules spell out when County Agricultural Commissioners should impose a fine, based on how serious the violation was and the violator's previous record.*

Pesticide laws and the regulatory policies that carry them out are designed to protect people and the environment from possible harm caused by pesticides. However, without strong enforcement, laws and policies are wasted paper, without force or effect. Action is what counts. In 2005, the Department of Pesticide Regulation (DPR) and the County Agricultural Commissioners (CACs) took action by working together to develop and adopt an Enforcement Response Policy. These guidelines were designed to strengthen pesticide enforcement and make it more consistent from county to county. Then in January 2006, DPR proposed rules to put key elements of the policy into regulation, giving it the force of law.

What does DPR want to accomplish with the new rules?

The new rules will make it clear how County Agricultural Commissioners (who handle local pesticide enforcement) should respond when laws are broken. They spell out when a fine should be imposed, based on how serious the violation was and the violator's previous record. CACs throughout California will follow the same requirements.

The new rules are based on the common-sense idea that violators should be punished, and the most serious violations should draw the most serious penalties. Enforcement works best when those responsible for enforcing the law use tools suited for the job, ranging from warning letters to fines imposed by the Commissioner or a court, to action that suspends or cancels a violator's license to do business. Fines can be as low as \$50 and into the tens of thousands of dollars, keyed to the seriousness of the offense.

What is the classification system for pesticide violations?

There are three violation categories. Class A violations are the most serious because they create "an actual" health or environmental hazard. Any incident that causes an illness, for example, would be a Class A violation. Class B violations have the "reasonable possibility" of creating a health or environmental effect. Class C violations are minor infractions that don't fall into Class A or Class B.

These classifications are not new. What is new is that, for the first time, Commissioners will be directed how to respond to violations based on what category they fall into.

What fines will Commissioners impose for the most serious violations, Class A?

The Commissioner can fine the violator or refer the case to the County District Attorney for prosecution, or to DPR for action. DPR can suspend or take away

a professional's license to do business, or refer a case to the State Attorney General for prosecution.

A fine imposed by the Commissioner would range from \$700 to \$5,000 for each Class A violation. If a case is referred to the Attorney General, the fine can be as high as \$10,000 for each Class A violation.

What about Class B violations?

The Commissioner has three choices for Class B violations. Two of them are the same as Class A violations—a fine or referral to the local district attorney or to DPR. (Fines for a Class B violation would range from \$250 to \$1,000 for each offense.)

Because violations in this category are less serious than Class A, the Commissioner has a third alternative. If the violator has a clean record for the previous two years in that county, the Commissioner can issue a warning letter or similar compliance action. (This alternative isn't available if the violator has a record of previous offenses within two years.) However, if the Commissioner issues a compliance action for a Class B violation, he or she must send a written report to DPR explaining the basis for not taking an enforcement action. If DPR does not agree, an enforcement action is required.

How are Class C violations to be handled?

These are violations that do not fall under Class A or Class B. They are usually minor infractions, for example, not filing required paperwork. Commissioners can respond to Class C violations with an enforcement action (for example, a fine) or a compliance action. However, if they issue a compliance action to someone who has had a violation in the previous two years, the Commissioner has to send a written report to DPR, explaining the decision. If the DPR Director does not agree, an enforcement action is required. (If the violator has a clean record, the Commissioner does not have to file a written report on a compliance action.)

Are there other elements in the proposed regulations?

The new rules also require CACs to give local District Attorneys, City Attorneys or Circuit Prosecutors the opportunity to file civil or criminal prosecution in serious cases. This would include incidents where someone was hospitalized, where several people were injured, or where there was significant property or environmental damage.

What happens next?

All State regulations go through public review before they can be adopted. State law sets up this process to ensure regulations are clear, and that public comments are addressed. During the public comment period, you can send comments in writing by mail, fax, or e-mail, on all or any part of the proposed regulations. You can also testify at a public hearing. At the hearing, anyone who is interested in speaking may testify, and you may also present written comments. Oral comments at a hearing carry no more weight than written comments.

DPR may make changes to the proposed regulations based on information received during the public comment period and at any hearing. If the changes are significant, DPR will ask for comments on the revised regulations.

For more information on the hearings or to comment on the proposed regulations, go to DPR's Web site, www.cdpr.ca.gov, click on "Regulations" in the lower right corner, and then on "Proposed Regulations." Or you can call DPR's Regulations Coordinator at 916-445-3991.

For more information about DPR, please see the Department's Web site, www.cdpr.ca.gov.